

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

COPELAND EQUIPMENT PARTS, INC.,

Plaintiff,

vs.

EMMERT INDUSTRIAL CORPORATION
DBA EMMERT INTERNATIONAL
CORPORATION,

Defendant.

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CIVIL ACTION NO. _____

NOTICE OF REMOVAL

Emmert Industrial Corp. dba Emmert International ("Emmert") hereby removes this action from the District Court of Harris County, Texas, and would respectfully show the Court as follows:

**I.
PARTIES**

1. Copeland Equipment Parts, Inc. ("Copeland") is a corporation incorporated under the laws of the State of Texas. For purposes of diversity jurisdiction, Copeland is a citizen of the State of Texas; it is not a citizen of the State of Oregon.

2. Emmert Industrial Corporation d/b/a Emmert International Corporation ("Emmert") is a Corporation incorporated under the laws of the State of Oregon. For purposes of diversity jurisdiction, Emmert is a citizen of the State of Oregon; it is not a citizen of the State of Texas.

II.
BASIS FOR REMOVAL

3. Removal of this action is done pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1332(a)(1). This dispute is between citizens of different states. The amount in controversy exceeds \$75,000, exclusive of interests and costs, as evidenced by Copeland's Original Petition filed January 16, 2009. See Exhibit 1-A.

III.
NATURE OF ACTION

4. Copeland filed this action against Emmert in state court alleging that Emmert is liable to Copeland under a contract between Copeland and Emmert. More specifically, Copeland alleges that it is entitled to recover \$93,082.31, plus attorney's fees and interest, from Emmert.

IV.
REMOVAL REQUIREMENTS

5. The state court action sought to be removed is Cause No. 2009-03052, in the District Court of Harris County, Texas, 280th Judicial District styled *Copeland Equipment Parts, Inc. v. Emmert Industrial Corporation dba Emmert International Corporation* (the "State Court Action"). A copy of this Notice of Removal will be promptly filed with the clerk of the state court from which the action was removed, and will also be served on the Plaintiff Copeland, by serving its counsel of record.

6. Removal is timely under 28 U.S.C. § 1446(b). This Notice of Removal is filed within thirty (30) days of Emmert's receipt of a copy of the pleading from which it could first be ascertained that the case had become removable, namely, Copeland's Original Petition attached hereto as Exhibit 1-A.

7. Copies of all process, pleadings, and orders served upon Emmert in the State Court Action by Copeland are attached hereto as Exhibits 1-A through 1-C.

8. No jury demand has been made in the State Court Action.

9. By filing this Notice of Removal, Emmert does not intend to waive any claims or defenses it may have.

WHEREFORE, PREMISES CONSIDERED, Emmert prays that the State Court Action now pending in the 280th Judicial District Court of Texas for Harris County, bearing court file number 2009-03052, be removed to this Court, along with all asserted claims and causes of action, and ask that this Court make and enter such further orders as may be necessary and proper.

Respectfully submitted,

Christopher Ward/wp Tal
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ATTORNEYS FOR EMMERT INDUSTRIAL
CORP. dba EMMERT INTERNATIONAL

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been forwarded via certified mail, return-receipted requested on this the ____ day of March 2009 to:

William C. Boyd
Patterson, Boyd & Lowery, P.C.
2101 Louisiana
Houston, Texas 77001
Telephone: 713.222.0351
Telecopier: 713.759.0642
Plaintiff's Counsel

Christopher Ward /wp tac
Christopher R. Ward